

REMARKS

The acknowledgment of the claim for foreign priority under 35 U.S.C. §119 and receipt of the priority document is noted with appreciation. The acceptance of the formal drawings filed on August 4, 2003 is further noted with appreciation.

The specification has been amended in several locations to correct spelling and grammatical errors. No new matter has been introduced.

Claims 1-7 are currently pending in the application. All claims have been amended to clarify the subject matter contained therein, as well as to comport with U.S. patent practice. Further, the claims were amended based on the claims as originally filed, due to inadvertent errors made in the Preliminary Amendment filed on August 4, 2003. Support for these amendments can be found throughout the specification and shown in Figure 2. No new matter has been introduced.

Claims 1-7 have been rejected under 35 U.S.C. §102 as being unpatentable of U.S. Publication 2001/0020198 to Wilson. This sole ground of rejection is respectfully traversed in view of the amendments above and remarks below.

At the outset, it should be noted that MPEP §2131 mandates that “TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT IN THE CLAIM.” Furthermore, MPEP §2131, citing *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1051, 1053 (Fed. Cir. 1987), states “[t]he identical invention *must* be shown in as complete detail as is contained in the...claim” (emphasis added). Here, not all of the structural limitations highlighted in Applicant’s claims, either as originally filed or as currently amended, are taught or suggested by Wilson. It is therefore respectfully submitted that the rejections to the claims are improper under §102 as Wilson cannot anticipate the rejected claims since it does not “teach the identical invention.” Further, since the above limitations are not taught or suggested, Wilson cannot be used to support a *prima facie* demonstration of obviousness under §103.

The claimed invention is drawn to a fixed amount sales system which includes a POS terminal where a customer selects a fixed amount that he or she wishes to spend and is able to purchase both items that are sold (e.g., items such as gasoline or soy sauce that are sold by weight

or volume) as well as option items (e.g., snacks, cigarettes, etc.) within the fixed amount. This eliminates the need for a customer to provide additional funds, and also eliminates the step of a store attendant having to provide change to a customer. These novel features of the present invention are clearly recited in independent claim 1, as amended, which requires that the POS terminal allow:

“(i)selecting a fixed amount for items and option items to be purchased, each option item being associated with an option item amount,
(ii) deducting from said fixed amount any option item amounts for option items to be purchased to provide a balance amount for said items as a difference between said fixed amount selected and said any option item amounts for option items to be purchased”

At no point does Wilson either teach or suggest these, and other, novel features of the present invention, thus precluding a *prima facie* demonstration of anticipation under 35 U.S.C. §102.

Wilson appears to teach a fuel dispensing system that provides refunds and loyalty points to cash customers who utilize portable communication units or transponders that communicate with the system during a transaction (see paragraphs 0005 - 0010 in Wilson). Although Wilson discusses the ability to purchase products and services (other than gasoline) at a fuel dispenser (see paragraphs 0003 and 0086 in Wilson), Wilson clearly does not teach or suggest limiting all purchases (e.g., gasoline plus snacks) to a fixed amount or displaying those products and services (other than gasoline) available for purchase *only within a fixed amount*. In fact, Wilson clearly teaches away from any use of selecting a fixed amount at a POS terminal because it is “often impractical and inconvenient” (see paragraph 0104 in Wilson - “...since the customer’s vehicle tank ullage is unknown, ***fueling to a prepaid dollar amount is often impractical and inconvenient to the customer.***” (emphasis added). Conversely, the claims of the present invention, as amended, clearly provides for the display of option items to be purchased within the fixed amount (see claim 1). In claim 4, the invention provides that only option items less than the fixed amount selected at the POS terminal are displayed. Similarly, Wilson fails to teach or suggest providing the items (e.g., items sold by weight or volume such as gasoline) to the

customer in an amount equal to the balance amount which is a difference between the fixed amount and amounts for any option item amounts. Claim 1 specifies "...deducting from said fixed amount any option item amounts for option items to be purchased to provide a balance amount for said items as a difference between said fixed amount selected and said any option item amounts for option items to be purchased ...", and providing said items at said POS terminal.

Further, while Wilson may appear to teach setting a spending limit, such a limit is not set at the fuel stand and, further, not selected by a customer at said fuel stand. In particular, paragraph 0192 in Wilson discusses a spending limit that is a safety and security feature in order to supervise the limits spent by the user at the fuel dispensing system. Wilson indicates that this feature would be particularly useful for parents who wish to supervise the spending limits of their children, as well as fueling for truck fleets. However, at no point does Wilson teach or suggest a POS terminal which allows for selecting a fixed amount which can be spent on both items and option items at the POS terminal. Claim 1 requires "...selecting a fixed amount for items and option items to be purchased, each option item being associated with an option item amount..."

Therefore, as demonstrated by the foregoing, Wilson clearly fails to anticipate the novel functions of the present invention in accordance with 35 U.S.C. §102. Further, it would not be obvious to one of ordinary skill in the art to modify the fuel dispensing system as taught in Wilson because Wilson teaches away from using fixed dollar amounts (see paragraph 0104) and does not teach allowing purchases of gas, for example, and snacks, for example, as fixed amount dollar purchases.

In view of the foregoing, it is respectfully requested that the application be reconsidered, that claims 1 - 7 be allowed, and that the application be passed to issue.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

A provisional petition is hereby made for any extension of time necessary for the continued pendency during the life of this application. Please charge any fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael E. Whitham", is written over the printed name.

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